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7 Attorneys for Representative Plaintiff
 And the Plaintiff Class

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

12 SEAN BARNES, individually, and on
 behalf of all others similarly situated,

13 Plaintiffs,

14 vs.

15 THE EQUINOX GROUP, INC.,
 16 and DOES 1 through 100, inclusive,

17 Defendants.

Case No. CV-10-03586 LB

CLASS ACTION

**STIPULATION AND ~~PROPOSED~~ ORDER
 RE FILING AND SERVICE OF FIRST
 AMENDED COMPLAINT**

SCOTT COLE & ASSOCIATES, APC
 ATTORNEYS AT LAW
 THE WACKOVIA TOWER
 1970 BROADWAY, NINTH FLOOR
 OAKLAND, CA 94612
 TEL: (510) 891-9800

1 WHEREAS on June 1, 2010, Plaintiff Sean Barnes ("Plaintiff") filed a Class Action
2 Complaint for Damages, Injunctive Relief, and Restitution in San Francisco Superior Court;

3 WHEREAS on August 11, 2010, Defendant The Equinox Group, Inc. ("Defendant")
4 filed its Answer to Plaintiff's Complaint;

5 WHEREAS on August 12, 2010, Plaintiff filed his First Amended Complaint in San
6 Francisco Superior Court prior to receiving Defendant's Answer;

7 WHEREAS on August 13, 2010, Defendant filed Notice of Removal of Civil Action to
8 this Court prior to receiving Plaintiff's First Amended Complaint; and

9 WHEREAS the parties agree to adopt the First Amended Complaint as the operative
10 pleading in this matter.

11 THEREFORE, the parties, through their undersigned respective counsel, stipulate and
12 request that the Court hereby order that, good cause appearing, Plaintiff's First Amended
13 Complaint for Damages, Injunctive Relief and Restitution may be adopted as the operative
14 pleading, and Defendant shall file and serve its Answer thereto within 20 days of this Stipulation.

15
16 IT IS SO STIPULATED, BY AND THROUGH COUSEL OF RECORD.

17
18 Dated: September 23, 2010

SCOTT COLE & ASSOCIATES, APC

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20
21 By: Molly A. Kuehn

Molly A. Kuehn, Esq.
Attorneys for the Representative Plaintiff
and the Plaintiff Class

22
23
24 Dated: September 30, 2010

JACKSON LEWIS LLP

25
26 By: Joanna L. Brooks

Joanna L. Brooks, Esq.
Attorneys for Defendant
The Equinox Group, Inc.

[PROPOSED] ORDER

For good cause shown, **IT IS HEREBY ORDERED.**

October 4

Dated: ~~September~~ __, 2010

By: _____

The Hon. Laurel Beeler
United State District Judge



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